

SECOND REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

# HOUSE BILL NO. 2130

97TH GENERAL ASSEMBLY

6395H.03P

D. ADAM CRUMBLISS, Chief Clerk

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## AN ACT

To amend chapter 408, RSMo, by adding thereto one new section relating to open-end credit plans.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapter 408, RSMo, is amended by adding thereto one new section, to be known as section 408.471, to read as follows:

**408.471. 1. For the purposes of this section, "open-end credit" means credit extended by a lender under a plan in which:**

**(1) The lender reasonably contemplates repeated transactions;**

**(2) The lender may impose a finance charge from time to time on an outstanding unpaid balance; and**

**(3) The amount of credit that may be extended to the borrower during the term of the plan, up to any limit set by the lender, is generally made available to the extent that any outstanding balance is repaid.**

**2. This section shall apply to open-end credit plans by lenders other than banks, trust companies, credit unions, savings banks, and savings and loan companies. Sections 408.500, 408.505, and 408.510 shall not apply to open-end credit made under this section.**

**3. Entities making open-end credit under this section may contract for and receive simple interest on the unpaid principal balance at rates agreed to by the parties, in addition to any fees permitted in accordance with subsection 6 of this section.**

**4. When making or negotiating open-end credit, a lender shall consider the financial ability of the borrower to reasonably make payments on the open-end credit plan**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 in the time and manner specified in the open-end credit plan. All records shall be retained  
18 at least two years.

19 5. Lenders extending credit under open-end credit plans under this section shall  
20 be subject to the provisions of sections 408.551 to 408.562.

21 6. No further or other charge or amount shall be directly or indirectly charged,  
22 contracted for, or received for interest, service charges, or other fees as an incident to any  
23 open-end credit plan made by a lender subject to this section except:

24 (1) An annual fee not to exceed fifty dollars;

25 (2) A credit advance fee of up to the lesser of seventy-five dollars or ten percent of  
26 the credit advanced from time to time from the line of credit; such credit advance fee may  
27 be added to the open-end credit outstanding along with any interest;

28 (3) A minimum charge for each scheduled billing period under the open-end credit  
29 plan during any portion of which there is an outstanding unpaid indebtedness under the  
30 open-end credit plan;

31 (4) If the contract so provides, a charge for late payment on each minimum payment  
32 in default for a period of not less than fifteen days in an amount to not exceed five percent  
33 of the minimum payment due or fifteen dollars, whichever is greater, not to exceed fifty  
34 dollars. If the contract so provides, a charge for late payment on each twenty-five dollars  
35 or less scheduled payment in default for a period of not less than fifteen days shall not  
36 exceed five dollars;

37 (5) If the agreement so provides, charges assessed by any institution for processing  
38 a returned payment plus a handling fee of not more than twenty-five dollars;

39 (6) The lawful fees actually and necessarily paid out by the lender to any public  
40 officer for filing, recording, or releasing in any public office any instrument securing the  
41 open-end credit plan, which fees may be collected when the loan is made or at any time  
42 thereafter;

43 (7) Reasonable towing costs and expenses of retaking, holding, preparing for sale,  
44 and selling any personal property in accordance with section 400.9; and

45 (8) If the agreement signed by the borrower provides for attorney's fees, and it is  
46 necessary to bring suit, such attorney's fees may not exceed fifteen percent of the amount  
47 due and payable under such agreement together with any court costs assessed. The  
48 attorney's fees shall only be applicable if the agreement is referred for collection to an  
49 attorney and is not handled by a salaried employee of the holder of the agreement.

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